

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Add Sections 53.00, et seq; 149.1, and 149.3
Amend Section 149

Title 14, California Code of Regulations

Re: Market Squid Fishery Management Plan, Commercial Take of Squid,
and Market Squid Restricted Access Program

- I. Date of Initial Statement of Reasons: October 6, 2003
Date of Amended Initial Statement of Reasons: April 12, 2004
Date of Second Amended Initial Statement of Reasons: May 27, 2004
- II. Date of Pre-adoption Statement of Reasons: July 19, 2004
Date of Amended Pre-Adoption Statement of Reasons: September 20, 2004
- III. Date of Final Statement of Reasons: December 6, 2004
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: August 1, 2003
Location: Long Beach, CA
 - (b) Discussion Hearings: Date: November 7, 2003
Location: San Diego, CA
(cancelled)

Date: December 5, 2003
Location: Sacramento, CA

Date: May 4, 2004
Location: San Diego, CA
 - (c) Adoption Hearing: Date: August 27, 2004
Location: Morro Bay, CA

Second Adoption Hearing: Date: December 3, 2004
Location: Monterey, CA
- V. Update:

At its August 27, 2004 meeting in Morro Bay, the Commission adopted the Market Squid Fishery Management Plan, its implementing regulations, and certified the plan as the final environmental document. Management

measures identified in the plan are designed to ensure sustainability of the squid fishery resource while reducing the potential for overfishing and other impacts. A restricted access program, which includes mechanisms to reduce the number of commercial squid permits, is a primary component of the plan.

While the Commission acted on most of the content of the proposed regulations at that meeting, it directed the Department to expand the proposed options relating to non-transferable permits. Furthermore, based on the motions made by the Commission, additional modifications were needed to some subsections of the proposed regulatory text (Subsection (g) of Section 149, and subsections (b),(c),(d),(g),(k) and (o) of Section 149.1). Those modifications were presented in the Amended Pre-adoption Statement of Reasons, dated September 20, 2004, and were noticed to the public on October 15. No substantive changes were made to the proposed language of the September 20, 2004 Amended Pre-adoption Statement.

The Commission acted at its second adoption hearing (December 3, 2004 in Monterey) to select initial issuance criteria for non-transferable permits, and to approve the changes needed to the regulatory text.

At the August 27, 2004 adoption hearing, the Commission did not adopt proposed Section 149.2, which would have required a permit for the sale of squid as live bait, nor Section 149.4 which would have established a Regional Control date.

A summary of the actions taken at the two adoption hearings is provided in the following table, which will result in amendment of Section 149, Title 14, CCR, and addition of Sections 53.00 et seq., Section 149.1, and Section 149.3, Title 14, CCR.

MARKET SQUID FISHERY MANAGEMENT PLAN IMPLEMENTING REGULATIONS ADOPTED BY THE COMMISSION ON AUGUST 27, 2004 AND DECEMBER 3, 2004	
FISHERY CONTROL RULES	
A. Seasonal Statewide Catch Limitation	
	Establish a seasonal catch limitation of 118,000 tons.
B. Monitoring the Fishery using an Egg Escapement Method	
	Monitor the fishery through the egg escapement method at a threshold level required in the CPS FMP while pursuing a biomass estimate of market squid.
C. Daily Trip Limit for Market Squid Vessels and Brail Vessels	
	Do not establish daily trip limits.
D. Weekend Closures	
	Continue closures from noon Friday to noon Sunday from the U.S.-Mexico border to the California-Oregon border.

MARKET SQUID FISHERY MANAGEMENT PLAN IMPLEMENTING REGULATIONS ADOPTED BY THE COMMISSION ON AUGUST 27, 2004 AND DECEMBER 3, 2004	
FISHERY CONTROL RULES	
E. Monitoring Program	
	Continue existing squid monitoring programs (port sampling and logbooks).
F. Live Bait Fishery and Incidental Catch of Market Squid	
	Continue existing regulations that do not require a squid permit when fishing for live bait or for incidental take 2 tons or less.
G. Gear Restrictions	
	Maintain existing gear restrictions requiring light shields and specifying a maximum wattage (30,000 watts).
	Lower edges of the shields shall be parallel to the deck of the vessel.
RESTRICTED ACCESS PROGRAM	
H. Market Squid Fleet Capacity Goal	
	Establish a capacity goal for market squid vessels that produces a moderately productive and specialized fleet [55 vessels, 18 brail and 34 light boats (these are the combined capacity goals for both Transferable and Non-Transferable permits of the same class)].
I. Initial Issuance of Permits	
	<p><u>Transferable Permits:</u></p> <p><i>Market Squid Vessel Permit:</i> Possession of a current market squid vessel permit (2004-2005) and a minimum of 50 landings in window period January 1, 2000 through March 31, 2003;</p> <p><i>Brail Permit:</i> Possession of a current market squid vessel permit (2004-2005) and a minimum of 10 landings made with brail gear in window period January 1, 2000 through March 31, 2003;</p> <p><i>Light Boat Permit:</i> Possession of a current market squid permit (either vessel or light for 2004-2005), and submission of one light boat log demonstrating fishery activity on or before December 31, 2000.</p> <p><u>Non-Transferable Permits:</u></p> <p><i>Market Squid Vessel Permit:</i> Possession of a current market squid vessel permit (2004-2005), possession of a California commercial fishing license for at least 20 years, and a minimum of 33 landings prior to August 27, 2004. Only receipts that demonstrate catch aboard a vessel that does not already qualify for issuance of a transferable permit of any permit class are eligible.</p> <p><i>Brail Permit:</i> Possession of a current market squid vessel permit (2004-2005), possession of a California commercial fishing license for at least 20 years, and a minimum of 10 landings with brail gear during one fishing season in a window period from January 1, 2000 through March 31, 2003. Only receipts that demonstrate catch aboard a vessel that does not already qualify for issuance of a transferable permit of any permit class are eligible.</p> <p><i>Light Boat Permit:</i> There is not a non-transferable permit category.</p>

MARKET SQUID FISHERY MANAGEMENT PLAN IMPLEMENTING REGULATIONS ADOPTED BY THE COMMISSION ON AUGUST 27, 2004 AND DECEMBER 3, 2004	
FISHERY CONTROL RULES	
J. Permit Fees	
	Establish an annual permit fee: Transferable Market Squid Vessel Permit: \$2000 Non-transferable Market Squid Vessel Permit: \$1000 Transferable Market Squid Brail Permit: \$2000 Non-transferable Market Squid Brail Permit: \$1000 Transferable Light Boat Permit: \$600
K. Market Squid Vessel Permit Transfer	
	Establish full transferability (1-for-1) of market squid vessel permits based on comparable capacity (within 10%); establish transferability of market squid vessel permits to a vessel of larger capacity under a "2-for-1" permit retirement.
L. Market Squid Brail Permit Transfer	
	Establish full transferability (1-for-1) of market squid brail permits based on comparable capacity.
M. Market Squid Light Boat Permit Transfer	
	Establish full transferability (1-for-1) of light boat permits.
N. Transferability Fee	
	Establish a transfer fee of \$500.
O. Experimental Market Squid Vessel Permits	
	Establish 3 experimental non-transferable market squid vessel permits.
P. Market Squid Fishery Regional Control Date	
	Do not establish a regional restricted access control date.
ECOLOGICAL CONCERNS	
Q. Harvest Replenishment/General Habitat Closure Areas	
	Do not set aside specific areas as harvest replenishment areas for market squid.
R. Area and Time Closures to Address Seabird Issues	
	Squid may not be taken using attracting lights in all waters of the Gulf of the Farallones National Marine Sanctuary (Sanctuary boundaries as defined on August 27, 2004) at any time.

Clarifying Changes to the Proposed Regulatory Text

The following non-substantive, technical or clarifying changes were made to the proposed regulatory text since the filing of the Amended Pre-Adoption Statement of Reasons dated September 20, 2004:

Subsections 53.01(s), 53.01(w), 149.1(i) and 149.3(b) – the term "Section" was replaced with the term "subsection" to more accurately reflect each reference.

Subsection 53.03 (a) – Market Squid FMP Project - the term “seasonal area closures” was modified to read only as “area closures” to more accurately reflect the squid fishery closure actions taken by the Commission on August 27, 2004 to protect sensitive non-target species and habitat.

Subsection 149(a), 149(h), and 149.1(a) - Language of the final regulatory text was updated to reflect re-lettering. The notice contained reference to subsection 149(h) as the subsection defining the incidental allowance of two (2) tons. The text of that subsection is now found as subsection (g) of Section 149.

Proposed subsections (g) through (k) of Section 149 as noticed in the May 27, 2004 Second Amended ISOR of this rulemaking were re-lettered in the final regulatory text as subsections (f) through (j) because the Commission did not adopt proposed subsection (f); which would have specified daily trip limits for the squid fishery.

A clarifying addition to the final regulatory text of subsections 149(e), 149(g), 149(i) and 149(j) was made to the text noticed in the May 27, 2004 Second Amended ISOR of this rulemaking. It was clarified that experimental fishery permits issued pursuant to Section 149.3 would also be subject to the regulations described in each of the aforementioned subsections. It is a clarifying change only because the noticed regulatory text of Section 149.3 previously indicated that these permittees would be subject to all regulations of Section 149.

Office of Administrative Law's Notice ID # Z 04-1005-08 (Marine Protected Areas) concurrently proposes to add subsection (k) to Section 149, Title 14, CCR; which would specify that a Tidal Invertebrate Permit is not needed for the commercial take of squid. This (Market Squid) rulemaking package would incorporate additional changes in Section 149, Title 14, CCR, proposed by Office of Administrative Law's Notice ID # Z 04-1005-08 (Marine Protected Areas). Should Notice ID # Z 04-1005-08, be approved first, its proposed subsection (k) would be re-lettered subsection (f), until such time as this (Market Squid) rulemaking package is approved, when it will be subsequently re-lettered subsection (k).

Section 149.1 - In subsections (d) and (g) of Section 149.1 pertaining to the permit renewal late fee, the regulatory text states that Fish and Game Code Section 7852.2 is notwithstanding. The authority for establishing a \$250 late fee is established in Fish and Game Code Sections 8428 and 7071. These Fish and Game Code Sections were added to the authority and reference listings for Section 149.1 in the final regulatory text.

Subsection 149.1(c)(1)(A) – The descriptor “Transferable” was added to describe the specific Market Squid Vessel Permit in the final regulatory text for clarity.

Subsection 149.1(c)(3)(A) – The descriptor “Transferable” was added to describe the specific Market Squid Brail Permit in the final regulatory text for clarity.

Subsection 149.1(c)(3)(C) – Minor grammatical changes were made in the final regulatory text for clarity and consistency with text contained in other subsections in Section 149.1.

Subsection 149.1(c)(6) – The phrase “at the time of issuance” was removed in the final regulatory text from the text proposed in the Amended Initial Statement of Reasons dated April 12, 2004 for clarity and accuracy. If a non-transferable permit must be placed on a replacement vessel pursuant to subsection 149.1(o)(3)(F), this transaction would not occur at the time of initial permit issuance. Therefore, regulatory text limiting the placement of a non-transferable permit on a vessel only to permits issued at the time of initial issuance would be erroneous.

Subsection 149.1(f)(2) – A technical clarification was made with regard to the status of a non-transferable permit upon death of a permittee. The permit is described as “null and void” in the final regulatory text rather than “expired.”

Subsection 149.1(h) – Renewal appeals – A technical clarification was made describing the appeals process for permit renewals that are denied by the Department. The department’s denial of a permit renewal may be appealed to the Commission within 60 days of the department issuing the written denial. The term “second denial” was replaced with “written decision.”

Subsection 149.1(l)(3) – Change of vessel ownership provisions for non-transferable permits – minor technical changes were made to the final regulatory text. If a vessel is permitted as a non-transferable vessel and is sold to a new owner, the non-transferable permit may not be transferred to the new owner. Sale of the vessel renders the permit “null and void” rather than “cancelled by the Department.”

Subsection 149.1(m)(4) was re-numbered from item (5) to item (4) in the final regulatory text, reflecting the fact that the Commission did not adopt the provision that would have set the capacity goal for the number of market squid vessel permits equal to the combined number of the capacity goals for market squid brail and light boat permits.

Subsection 149.1(p) – Transfer appeals – A technical clarification was made describing the appeals process for permit transfer requests that are denied by the Department. The department’s denial of a permit transfer may be appealed to the Commission within 60 days of the department issuing a written decision. The term “second denial” was replaced with “written decision.”

Subsection 149.1(q) – A grammatical correction was made to this subsection, which describes the process to upgrade a light boat permit to a brail permit. “Transferable Market Squid Light Boat Permits” was replaced with “Transferable Market Squid Light Boat Permit.” In subsection 149.1(q)(1), the descriptor “Transferable” was added preceding “Market Squid Brail Permit” to clarify that individuals seeking the upgrade would be issued a transferable rather than a non-transferable brail permit. In subsection 149.1(q)(2), the regulatory text was clarified to specify that “Transferable Market Squid Light Boat” permittees are the permit class eligible to transfer permits for purposes of a brail permit upgrade.

Subsection 149.1(r) – Market Squid Brail Permit Upgrade Appeals – Minor grammatical changes were made to the final regulatory text of this subsection. The descriptor “Transferable” was added preceding both “Market Squid Light Boat Permit” and “Market Squid Brail Permit” for clarity to distinguish from non-transferable permit classes. Additionally, as with subsections (h) and (p) of Section 149.1, the term “second denial” was replaced with “written decision.”

Statutes Made Inoperative Upon Adoption of the Market Squid FMP and Implementing Regulations

Fish and Game Code Section 8429.7 states that Sections 8420.5 to 8423.5, inclusive, and Sections 8426 and 8427 shall become inoperative upon the adoption by the Commission of a market squid fishery management plan and the adoption of implementing regulations pursuant to Section 8425, and are repealed six months thereafter.

Fish and Game Section 7852.2 becomes inoperative as it applies to commercial squid fishery permits, per authority of Fish and Game Code Section 8428. This section states that fees for commercial squid fishing permits shall be established by the Commission; and that the total revenues derived shall not exceed the Department’s and the Commission’s costs for managing the fishery. Further authority for making Section 7852.2 inoperative is provided in Fish and Game Code subsection 7071(b), which states that regulations that the Commission adopts to implement a fishery management plan may make inoperative any statute as it specifically pertains to that fishery. The statute further specifies that permit fees are included under this authority.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

The attached draft Market Squid Fishery Management Plan (dated April 12, 2004) contains a summary of all comments received and the Department's responses to these comments from July 7, 2003 through February 1, 2004. See [Table 1-1](#) on pages 4-1 through 4-32 of the document.

Public comments received in the Commission office after February 1, 2004 are included with the Final Statement of Reasons ([Table 3, attached](#)). Comments made at both the August 27 and December 3 adoption hearings are also included. (Table 3 includes Table 2 from the Pre-adoption Statement of Reasons dated July 19, 2004.)

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change: A substantial range of options have been provided in the scope of the proposed regulatory language to offer the Commission and public a suite of alternatives when deciding how to implement the Market Squid FMP. While additional alternatives may have been proposed to the Department or Commission since the Commission was granted management authority for squid fishery management in 1998, they were not considered feasible for inclusion in the Plan or implementing regulations at this time. Responses to those comments are provided in Section 4 of the Market Squid FMP – Responses to Comments Regarding the Preliminary Draft Market Squid FMP.

- (b) No Change Alternative: Should the Commission select not to adopt the Market Squid FMP or implementing regulations, only existing fishery regulations and statues would continue to govern management of the resource. These measures are inadequate to ensure long term sustainability of the fishery and resource, and would be in conflict with direction given by the Legislature to adopt a fishery management plan and implementing regulations. The existing moratorium on permit issuance would continue with no provisions for permit transferability, and needed modifications to other existing fishery management regulations would not be implemented.
- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete With Businesses in Other States.

The Commission has made an initial determination that the adoption of the recommended regulations may result in adverse economic impacts directly affecting California's small businesses associated with the market squid fishery. However, the potential economic impacts would not affect the ability of California's small businesses to compete with businesses in other states.

Implementing restricted access fishery regulations and ensuing fleet reductions, could result in potential direct ex-vessel revenue losses as high as \$3,047,071 fleet wide. This is based on averaged 5-year landings information. On an individual basis, these losses could range from \$38,000 to \$98,000 (before deducting costs of doing business) for each fisherman removed from the fishery. Details of these potential impacts are presented in the Market Squid Fishery Management Plan, dated July 7, 2003, Section 1, Table 3-21. Contact the Agency representative named herein for a complete analysis of the impacts.

Reducing the statewide seasonal harvest to levels ranging from 11,000 to 80,000 short tons, could result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Potential direct revenue losses to individual fishermen will depend on how many fishermen remained in the fishery, but could range from \$7,400 to \$117,500 per individual (before deducting costs of doing business).

An updated evaluation of adverse economic impacts is now available, and is included in the Market Squid Fishery Management Plan (dated April 12, 2004).

The regulations proposed would directly affect approximately 230 commercial market squid fishermen and light boat operators. The direct impacts to the private sector will depend on which of the proposed management measures and regulations are adopted. There are three primary areas of the proposed regulations that may have significant economic impact to the businesses associated with the market squid fishery:

- Seasonal and regional catch limits; ranging from 22,000,000 to 250,000,000 pounds statewide (11,000 to 125,000 short tons), and 11,000,000 to 223,200,000 pounds regionally (5,500 to 111,600 short tons),
- Implementation of a Restricted Access Squid Fishery; no new permits would be issued and permit renewal is subject to eligibility criteria intended to reduce the fleet size from about 230 permittees to as many as 148 to 199 permittees,
- Changes to annual permit fees; ranging from \$400 to \$5,000.

Average market squid landings for calendar years 2001 and 2002 were 183,050,000 pounds statewide (91,525 short tons) at an ex-vessel value of about \$20,800,000. Among the roughly 230 market squid permit holders, this represents potential individual revenues of approximately \$90,400 annually (on average and before deducting costs of doing business). Reducing the statewide seasonal harvest to levels less than recent landings, at levels ranging from 22,000,000 to 160,000,000 pounds (11,000 to 80,000 short tons), would result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. The majority of these impacts would occur in the Counties of Monterey, Santa Barbara, and Los Angeles, where most market squid landings are made. Potential revenue losses to individual fishermen would depend on how many fishermen remained in the fishery. Other proposed statewide seasonal levels of 236,000,000

and 250,000,000 pounds (118,000 and 125,000 short tons) would not present an economic impact to the fishery since these levels are above average catches in recent years.

Proposed regional catch limits, for the area North of Point Conception and area South of Point Conception, could impact local coastal communities disproportionately through reduced catch levels. The proposed 11,000,000 to 15,200,000 pound catch limits (5,500 to 7,600 short tons) for the North region and 131,000,000 to 233,000,000 pounds (65,500 to 111,600 short tons) for the South region potentially results in a much larger impact to fishermen in the North region. Recent landings information for the two regions (for calendar years 2001 and 2002 averaged), were about 75,200,000 pounds (37,600 short tons) for the North region and about 274,800,000 pounds (137,400 short tons) in the South annually. The potential loss in ex-vessel revenue for the North region fishermen ranges from \$6.8 million to \$7 million (an 80 percent to 85 percent reduction from recent landings revenues), and ranges from \$5.8 to \$16 million (a 19 percent to 52 percent reduction from recent landings revenues) for South region fishermen. However, since Northern landings were unusually high in calendar year 2002, these impact estimates are likely to be overstated.

Regulations that would establish a restricted access fishery work in tandem with proposed eligibility criteria to determine which fishermen will remain in the fishery. Depending on the criteria adopted, the fleet of permittees may be reduced by 31 to 81 permits, in order to arrive at a fleet of 148 to 199 permittees. The proposed eligibility criteria are crafted to exclude fishermen who historically have had only marginal participation in the fishery; for example excluded fishermen may represent only 17 percent of the seasonal ex-vessel revenue generated by the entire fleet. Thus potential ex-vessel revenue losses to individual fishermen culled from the fishery, based on averaged 5-year landings information, could range from \$38,000 to \$98,000 per permittee (before deducting costs of doing business).

New fees may be stipulated under the proposed regulations, depending on which regulatory options are adopted. Currently, annual permit fees for market squid light boats and market squid fishermen are \$400. The regulations propose new annual fees ranging from \$400 to \$5,000. Permit transfer fees (or upgrade fees) currently at \$250 per transfer, may range from \$250 to \$1,000, depending on which regulations are adopted. The projected financial impact of the proposed permit fees to the average fisherman, calculated as the Present Value of permit fees

paid over a 5-year time period, discounted at the 2002 Federal 5-year Treasury Bill rate of 3.82 percent, ranges from \$1,800 to \$22,400.

The proposed regulations may result in changes in seasonal market squid harvests statewide. Reducing the statewide seasonal harvest to levels less than recent landings, at levels ranging from 22,000,000 pounds to 160,000,000 pounds (11,000 to 80,000 short tons), would result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Extrapolating these potential revenue losses to the local economies, through the use of an output demand multiplier of 1.61, yields economic impact estimates of \$2,700,000 to \$28,000,000 in lost economic output demand statewide. Proposed statewide seasonal catch levels of 236,000,000 and 250,000,000 pounds statewide (118,000 and 125,000 short tons) would not present a statewide economic impact to the fishery since these levels are above average catches in recent years.

Statewide costs or economic impacts associated with implementing a restricted access fishery, and the ensuing loss of fishermen through permit reductions, are based on an estimated \$3.7 million loss in ex-vessel revenue production capacity due to fleet reduction. Apportioning this \$3.7 million among the respective local economies and using appropriate output demand multipliers, yields potential reduction of \$6 million to \$7.8 million statewide in economic demand output (this recognizes that each \$1 of ex-vessel revenue generates \$1.61 to \$2.05 in economic activity for local economies). Further details on these economic impacts are presented in the April 12, 2004, Market Squid Fishery Management Plan, see Section 3, Item 1.1.3.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Regulations to establish a restricted access fishery and the associated eligibility criteria may result in loss of 31 to 81 market squid fishing jobs.

- (c) Cost Impacts on a Representative Private Person or Business:

Reducing the statewide seasonal harvest to levels ranging from 11,000 to 80,000 short tons, could result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Potential direct revenue losses to individual fishermen

will depend on how many fishermen remained in the fishery, but could range from \$7,400 to \$117,500 per individual (before deducting costs of doing business).

Implementing restricted access fishery regulations and ensuing fleet reductions, could result in potential direct ex-vessel revenue losses as high as \$3,047,071 fleet wide. This is based on averaged 5-year landings information. On an individual basis, these losses could range from \$38,000 to \$98,000 (before deducting costs of doing business) for each fisherman removed from the fishery. Details of these potential impacts are presented in the Market Squid Fishery Management Plan, dated July 7, 2003, Section 1, Table 3-21. Contact the Agency representative named herein for a complete analysis of the impacts.

Other private person or business costs impacts that could arise from the proposed action are increases in market squid permit fees. Currently market squid permits fees are set at \$400 annually, and depending on the regulations adopted could increase to as much as \$5,000 annually.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs Mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

Updated Informative Digest/Policy Statement Overview

At its August 27, 2004 meeting in Morro Bay, the Commission adopted the Market Squid Fishery Management Plan, its implementing regulations, and certified the plan as the final environmental document. Management measures identified in the plan are designed to ensure sustainability of the squid fishery resource while reducing the potential for overfishing and other impacts. A restricted access program, which includes mechanisms to reduce the number of commercial squid permits, is a primary component of the plan.

While the Commission acted on most of the content of the proposed regulations at that meeting, it directed the Department to expand the proposed options relating to non-transferable permits. Furthermore, based on the motions made by the Commission, additional modifications were needed to some subsections of the proposed regulatory text (Subsection (g) of Section 149 , and Subsections (b),(c),(d),(g),(k) and (o) of Section 149.1). Those modifications were presented in the Amended Pre-adoption Statement of Reasons, dated September 20, 2004, and were noticed to the public on October 15. No substantive changes were made to the proposed language of the September 20, 2004 Amended Pre-adoption Statement.

The Commission acted at its second adoption hearing (its December 3, 2004 meeting in Monterey) to select initial issuance criteria for non-transferable permits, and to approve the changes needed to the regulatory text.

Regulations are proposed to implement a Market Squid Fishery Management Plan (Market Squid FMP, or Plan), including a market squid commercial fishery restricted access program, and to amend existing commercial squid fishing regulations adopted by the Fish and Game Commission (Commission) to manage the squid resource at a sustainable level. Fish and Game Code Section 8425 directs the Department of Fish and Game (Department) to develop, and the Commission to adopt, a Market Squid FMP in compliance with the Marine Life Management Act (MLMA) (Chap. 1052, Stats. 1998).

Each of the management alternatives included in the proposed regulatory amendments to Title 14, CCR, is described in the summary which follows.

Add Section 53.00, et seq. This proposed series of regulations serves to implement the Market Squid FMP, as follows:

Section 53.00 - Purpose and Scope. Following in the series of regulations established in Chapter 5.5 of Title 14, CCR, which implement fishery

management plans adopted by the Commission pursuant to the Marine Life Management Act, this Section provides that regulations established in Article 4 are consistent with the goals and objectives of the Market Squid FMP. It also states that the Plan, in combination with other applicable state and federal laws and regulations, governs management and regulation of market squid stocks and fisheries. The regulation further explains where specific squid regulations that will be adopted concurrently with adoption of the Plan may be found in the structure of Title 14.

At its August 27, 2004 meeting, the Commission adopted this section as proposed.

Section 53.01- Definitions. This Section serves to provide definitions that are specific to the Market Squid FMP. All definitions provided are consistent with those found in the general FMP definitions found in Section 50.01 of Title 14 as well as other provisions of state and federal fisheries laws. The specified approval date was updated to reflect extension of the Commission's plan adoption date.

At its August 27, 2004 meeting, the Commission adopted this section as proposed. The final regulatory language of subsection 53.01(m) reflects the adoption date (August 27, 2004) of the Market Squid FMP. Minor clarifying changes were made to the final regulatory text in subsections (s) and (w) of Section 53.01.

Section 53.02 - Process and Timing. This Section explains that management of squid stocks and fisheries will conform to the Market Squid FMP and other applicable state and federal laws and regulations, and that regulations may be adopted by the Commission in compliance with the Administrative Procedure Act to achieve intended management actions. The Department will provide the Commission information periodically upon which management decisions may be made, and the Director may establish an advisory committee to assist the department with development and review of fishery assessments, management options and proposals, and Plan amendments.

At its August 27, 2004 meeting, the Commission adopted this section as proposed.

Section 53.03 - Market Squid Fishery Management Plan (Market Squid FMP) Project. This Section serves to outline the proposed management actions which are presented in the Market Squid FMP, which constitute the "Proposed Project" of the Market Squid FMP, in fulfillment of CEQA requirements. This Section also provides that other management measures which are not included at this time as part of the proposed project or specifically detailed in the Market Squid FMP may be considered by the Commission for implementation at a later date, provided the action is consistent with the goals and objectives of the Market Squid FMP.

At its August 27, 2004 meeting, the Commission adopted this section. A minor modification was made to the proposed text of subsection (a) – the term “seasonal area closures” was modified to read only as “area closures” to more accurately reflect the squid fishery closure actions taken by the Commission on August 27th to protect sensitive non-target species and habitat.

149. Commercial Taking of Market Squid. This Section was modified in 2000 and 2002 based upon the Commission’s adoption of interim regulations using management authority from the Legislature to protect and manage the squid resource. Management measures adopted in these actions included enactment of weekend closures to provide for uninterrupted squid spawning throughout the state for two days per week, requirements to fill out logbooks of fishing activity, a limitation on the amount of light (wattage) which may be used for commercial squid fishing operations, a requirement to shield lights used for commercial squid fishing, and a statewide seasonal limit on the allowable catch of 125,000 short tons. There requirements are currently specified in subsections (a) through (e) of Title 14, CCR. Modifications, alternatives and additions to regulations in this Section are discussed below.

Section 149 Subsection (a) – Weekend Closures. Four regulatory options are provided for the Commission’s consideration on this item; the first of which would only modify existing regulatory language to provide needed clarity on the scope of the regulation for enforcement purposes. The proposed modifications would clarify that commercial landings which are smaller than two tons are exempt from the closure in order to continue to provide an opportunity to land squid which may be taken as bycatch in fisheries where squid is not a target. Additionally, it is clarified that squid taken for live bait purposes on weekends pursuant to this Section shall only be sold as live bait.

The second option would repeal the weekend closure altogether.

The third option would maintain existing statewide weekend closures but provide for an exemption in the areas of the northern Channel Islands to allow fishing to continue 7 days per week, as some portion of the squid stock in that area would instead be protected in the newly-established marine protected areas.

The fourth option would maintain existing weekend closures in waters south of Point Conception, but the Commission could adjust the number of days per week open to fishing as well as the times of day or night that commercial squid fishing would be authorized in waters north of Point Conception. Furthermore, the Commission could enact an additional time closure for commercial squid fishing in waters of District 16 (southern Monterey Bay) between 9 a.m. and 6 p.m. on the days when fishing is authorized.

At its August 27, 2004 meeting, the Commission adopted proposed Option A – continuing closures from noon Friday to noon Sunday from the U.S.-Mexico border to the California-Oregon border. In addition, language of the final regulatory text was updated to reflect the re-lettering of proposed subsection 149(h) to subsection 149(g)

Section 149 Subsection (b) – Logbooks. As with weekend closure regulations in subsection (a), the Commission will take action at the adoption meeting to specify if existing logbook regulations shall be maintained and slightly modified for enforcement purposes, or if the measure shall be repealed. Proposed modifications to the existing language would update the permit designations to be consistent with the proposed commercial restricted access program and modify the revision dates of the logbook forms which are referenced in the regulation. It would also specify that logbook records shall be transmitted to the Department on or before the 10th day of each month following the month that fishing activity occurred, a requirement consistent with existing regulatory language in Section 190, Title 14, CCR.

At its August 27, 2004 meeting, the Commission adopted proposed Option A – continuing current log book requirements.

Section 149 Subsection (c) – Wattage Limitation. The Commission will take action at the adoption meeting to specify if existing wattage regulations shall be eliminated, maintained at the current level, or replaced with a wattage limitation set at a value between the range of 15,000 to 30,000 watts. Other slight modifications are proposed to the existing regulatory language for technical clarification purposes.

At its August 27, 2004 meeting, the Commission adopted proposed Option A – continuing current wattage requirements.

Section 149 Subsection (d) – Light Shields. The Commission will determine if the current requirements shall be maintained status quo, if they should be modified to improve the effectiveness of the measure, or if they shall be repealed altogether. Department enforcement staff have indicated that the existing regulatory language is somewhat unclear with regard to the orientation of the lights directly downward; thus, the option to modify the requirements would add language which would also require that the lower edges of the shields be parallel to the deck of the vessel. The Department recognizes that this change to current practice could require that some light boat or vessel owners would need to substantially retrofit their shields in order to comply with the proposed regulatory change; therefore it would be incorrect to designate the proposed change as merely a non-substantive, technical or clarifying in nature; and therefore it is considered as a separate regulatory option.

At its August 27, 2004 meeting, the Commission adopted proposed Option B – modifying current light shield requirements such that the lower edges of the shields shall be parallel to the deck of the vessel.

Section 149 Subsection (e) – Seasonal Catch Limitation. The Commission has four options to select from in terms of specifying an overall limit each season on the commercial harvest of squid. In options that serve to modify existing regulatory language, the existing term of “seasonal harvest guideline” is proposed to be replaced with “seasonal catch limitation” in each option in order to maintain consistency with general fishery management plan definitions specified in Section 50.01, Title 14, CCR. Other clarifying language was included to acknowledge existing or proposed regulatory provisions in this Section. The options include A) maintain existing regulations for a statewide catch limit, while considering changes to the allowable volume from a range of 24,000 to 125,000 short tons, B) eliminate the existing provisions, C) use El Nino events to determine the allowable harvest level [11,000 short tons during an El Nino time period and 115,000 short tons during a non-El Nino time period], or D) establish the limits regionally rather than statewide [5,500 to 27,800 short tons north of Point Conception and 65,500 to 111,600 short tons south of Point Conception]. Options C and D involve substantial new regulatory language.

At its August 27, 2004 meeting, the Commission adopted proposed Option A – continuing the requirements for a statewide catch limit, and set the statewide catch limit at 118,000 tons. In addition, a clarifying change was made stating that experimental fishery permits issued pursuant to Section 149.3 would also be subject to the regulations described in this subsection. It is a clarifying change only because the noticed regulatory text of Section 149.3 previously indicated that these permittees would be subject to all regulations of Section 149.

Section 149 Subsection (f) – Option to Add Daily Trip Limits. If adopted, these regulations would limit each squid landing to a specified tonnage level depending on the type of fishing gear used. Roundhaul (purse seine, lampara) landings would be subject to a daily trip limit ranging from 30 to 138 short tons per day, and a level of 15 short tons would be imposed for brail vessels.

The Commission did not adopt proposed subsection 149 (f), which would have specified daily trip limits for the squid fishery.

Section 149 Subsection (g) – Options to Add Seasonal Closure Areas for Seabird Protection and/or Harvest Replenishment Areas and/or General Habitat Closures. If adopted, these regulations would establish a closed season from February 1 through September 30 for squid fishing, or for squid fishing employing the use of lights, in specified areas at two or three of the northern Channel Islands and/or the Farallon Islands and/or all waters of the Gulf of the Farallones National Marine Sanctuary in order to provide seasonal protection for nesting

seabirds. Each of the proposed closure areas extend outward at least one nautical mile from shore. These options were designed to provide various levels of protection to multiple seabird species which may have reduced, threatened, or endangered population levels. The seasonal closure end date was amended to provide the Commission a range of time periods from which it may select. The proposed closure period may now end on any date between September 30 and November 30.

Additionally, if adopted, a proposed regulation would prohibit the take of market squid for commercial purposes in waters less than 100 fathoms in depth contiguous to San Nicholas Island. This proposed option may provide a specific squid harvest replenishment area in a currently underutilized squid fishing area and would prevent expansion of the fishery into these waters.

Additionally, if adopted, proposed regulations would prohibit the take of market squid for commercial purposes in specified northern California waters for general habitat protection. These measures are designed to prevent squid fishery interactions in areas that have not been traditionally utilized for commercial squid fishing. In 2003, several boats began harvesting squid in waters well north of the traditional Monterey fishing grounds, which is of concern to some biologists and other users of these areas. Particular issues that have been raised as matters of concern in these areas include the potential for bycatch of salmon in purse seine gear, potential for impact to seabirds from noise and lights, and the potential for interaction with marine mammals. Options to address these concerns include closing all waters to the commercial take of squid north of Pillar Point at any time, prohibiting the commercial take of squid in any waters of the Gulf of the Farallones National Marine Sanctuary, prohibiting the take of squid for commercial purposes in waters extending offshore one nautical mile from the mean high water mark of Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock, or prohibiting the take of squid for commercial purposes in District 10.

At the August 27, 2004 adoption hearing, the Commission moved to establish a closure to all squid fishing activity using lights in the Gulf of Farallones National Marine Sanctuary, with the boundaries of the Sanctuary being defined as those that are currently in effect. The action was taken to provide protection to seabird colonies at the Farallon Islands and Point Reyes, and was not intended as a seasonal closure nor a general habitat closure. Modification to the originally noticed regulatory text was needed to reflect these determinations. This modification was provided in the October 5, 2004 Continuation Notice and was adopted by the Commission at its December 3, 2004 meeting. In addition, language of the final regulatory text was updated to reflect re-lettering since the Commission did not adopt proposed subsection 149 (f).

Section 149 Subsection (h) –Allow for Incidental Take. This regulation would specify that it is unlawful to take, land, or possess in excess of two tons of squid per trip or per calendar day except as authorized under a specific permit designation or for purposes of live bait only. This amendment would serve to establish, in regulation, a statutory provision that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

At its August 27, 2004 meeting, the Commission adopted the proposed text allowing for incidental take of market squid. Language of the final regulatory text was updated to reflect the re-lettering of proposed subsection 149(h) to subsection 149(g). In addition, a clarifying change was made stating that experimental fishery permits issued pursuant to Section 149.3 would also be subject to the regulations described in this subsection. It is a clarifying change only because the noticed regulatory text of Section 149.3 previously indicated that these permittees would be subject to all regulations of Section 149.

Section 149 Subsection (i) –Specify Forfeiture Process. This amendment would also serve to establish, in regulation, a statutory provision in Section 8421 (h) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

At its August 27, 2004 meeting, the Commission adopted the proposed text specifying the forfeiture process. In addition, language of the final regulatory text was updated to reflect re-lettering since the Commission did not adopt proposed subsection 149 (f). Minor clarifying changes were made to the final regulatory text of subsection (i) of Section 149.

Section 149 Subsection (j) –Clarify Authorized Use of Light to Aggregate Squid. This amendment would also serve to establish, in regulation, a statutory provision in Section 8423 (e) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

At its August 27, 2004 meeting, the Commission adopted the proposed text clarifying authorized use of light to aggregate squid. Language of the final regulatory text was updated to reflect re-lettering since the Commission did not adopt proposed subsection 149 (f). In addition, a clarifying change was made stating that experimental fishery permits issued pursuant to Section 149.3 would also be subject to the regulations described in this subsection. It is a clarifying change only because the noticed regulatory text of Section 149.3 previously indicated that these permittees would be subject to all regulations of Section 149.

Section 149 Subsection (k) –Clarify to Whom Citations for Violations of This Section May Be Issued. The proposed regulations would include this subsection to clarify that citations for violations of this Section may be issued to the vessel operator, crewmembers, and/or the holder of a market squid permit issued pursuant to Section 149.1, Title 14, CCR.

At its August 27, 2004 meeting, the Commission adopted the proposed text clarifying to whom citations for violations may be issued. Language of the final regulatory text was updated to reflect re-lettering since the Commission did not adopt proposed subsection 149 (f). In addition, a clarifying change was made stating that experimental fishery permits issued pursuant to Section 149.3 would also be subject to the regulations described in this subsection. It is a clarifying change only because the noticed regulatory text of Section 149.3 previously indicated that these permittees would be subject to all regulations of Section 149.

Add Section 149.1, et seq. This proposed series of regulations serve to implement the commercial Market Squid Fishery Restricted Access Program, as follows below. The program and regulations are designed in accordance with the Commission's policy on Restricted Access Commercial Fisheries, and provides for a reduction in the fishing capacity of the market squid fleet and to allow for transfer of permits, which has been prohibited under the current statutory moratorium on permit issuance. The regulations, if adopted, would define and establish permits of different classes based on authorized geartypes, procedural requirements for permit issuance, fishery capacity goals, and specific mechanisms to achieve those goals through permit transferability and upgrades.

At its August 27, 2004 meeting, the Commission adopted proposed Section 149.1 to implement the commercial Market Squid Fishery Restricted Access Program. In subsections (d) and (g) of Section 149.1 pertaining to the permit renewal late fee, the regulatory text states that Fish and Game Code Section 7852.2 is notwithstanding. The authority for establishing a \$250 late fee is established in Fish and Game Code Sections 8428 and 7071. These Fish and Game Code Sections were added to the authority and reference listings for Section 149.1 in the final regulatory text.

Section 149.1 Subsection (a) – Establish Permit Requirement to Fish Squid for Commercial Purposes. This proposed regulation states that on and after April 1, 2004, any vessel engaged in taking squid, landing squid, or attracting squid by light for commercial purposes, shall have a valid market squid permit issued to the owner of that vessel. The regulatory language was updated to reflect extension of the plan adoption date. April 1, 2005 is now proposed as the effective date for the permit requirement. A minor grammatical change was made to the proposed regulatory text for clarity.

At its August 27, 2004 meeting, the Commission adopted this proposed subsection. In addition, language of the final regulatory text was updated to reflect the re-lettering of proposed subsection 149(h) to subsection 149(g).

Section 149.1 Subsection (b) – Establish Permit Classes and Authorized Activities. The proposed subsection would designate up to three classes of commercial squid permits, to include Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits. Within each permit class, authorized gear types are specified. The regulation also allows permits to be specified as transferable or non-transferable, or both types of permits to be issued in each class. Only one market squid permit, regardless of the class of permit, may be issued per owner per vessel.

At the August 27, 2004 adoption hearing, the Commission moved to establish both transferable and non-transferable permit classes for Market Squid Vessel and Brail permits. The Commission also established that all Market Squid Light Boats that qualified for initial permit issuance would be issued transferable permits. The regulatory text of this subsection was amended for clarity and specificity with regard to the activities authorized under each class of permit. These modifications were provided in the October 5, 2004 Continuation Notice and were adopted by the Commission at its December 3, 2004 meeting.

Section 149.1 Subsection (c) – Establish Initial Permit Issuance Criteria. The proposed regulatory language specifies that permits are issued for fishing vessels based on either the vessel or an individual meeting the selected initial issuance criteria for each class of permit. The Commission may choose among several initial issuance criteria options that can result in transferable and/or non-transferable permit designations. Most proposed initial issuance criteria options require that the vessel owner be issued a current squid permit. The specified permit dates were updated to reflect extension of the plan adoption date.

The proposed language defining initial permit issuance criteria was clarified for each proposed permit class, as qualifying criteria may be based on either a vessel's catch history (determined from fish landing receipts made in the vessel's identification number) or an individual's catch history (determined from fish landing receipts made in the individual's identification number). Transferable permits may be issued based on a vessel's catch history, while criteria for non-transferable (20-year grandfather) permits are based upon an individual's personal catch history. It was further clarified that once a Transferable Market Squid Vessel Permit, Brail Permit, or Light Boat Permit has been issued for use on a vessel based on that vessel's catch history, individuals may not also use their personal catch history made aboard that vessel toward issuance of a non-transferable vessel or brail permit. This clarification was needed to prohibit the

issuance of multiple permits based on catch history associated with a single vessel.

For vessel permits, initial issuance criteria are constructed upon levels of catch history ranging from 50 to 150 squid landings within a qualifying window period with any start date from January 1, 1990 through January 1, 2000, and any end date from November 12, 1999 through March 31, 2003.

The final text of subsection (c) of Section 149.1 required amendment once the Commission specified at the August 27, 2004 adoption hearing that in order to qualify for a future permit of any permit class, the owner must possess a permit for the 2004-2005 fishing year. Previous versions of the regulatory text allowed individuals to qualify for a non-transferable permit without holding a current permit. The language was further clarified to specify that during initial permit issuance, a permit must be placed only on a vessel that was licensed as either a market squid vessel or light boat in the 2004-05 fishing season, and which must also be the vessel upon which the qualifying catches were made. These modifications were provided in the October 5, 2004 Continuation Notice and were adopted by the Commission at its December 3, 2004 meeting.

At the August 27, 2004 adoption hearing, the Commission adopted the initial issuance criteria for a Transferable Market Squid Vessel Permit in subsection (c)(1) of Section 149.1: Possession of a current market squid vessel permit (2004-2005) and a minimum of 50 landings in window period January 1, 2000 through March 31, 2003. The descriptor “Transferable” was added to describe the specific Market Squid Vessel Permit in the final regulatory text of subsection 149.1(c)(1)(A) for clarity.

For brail permits, the Commission may consider a range of qualifying participation levels from 5 to 25 squid landings made with brail gear within a qualifying window period with any start date from January 1, 1990 through January 1, 2000, and any end date from November 12, 1999 through March 31, 2003.

At the August 27, 2004 adoption hearing, the Commission adopted the initial issuance criteria for a Transferable Market Squid Brail Permit in subsection (c)(3) of Section 149.1: Possession of a current market squid vessel permit (2004-2005) and a minimum of 10 landings made with brail gear in window period January 1, 2000 through March 31, 2003. The descriptor “Transferable” was added to describe the specific Market Squid Vessel Permit in the final regulatory text of subsection 149.1(c)(3)(A) for clarity. In addition, minor grammatical changes were made in the final regulatory text of subsection 149.1(c)(3)(C) for clarity and consistency with text contained in other subsections in Section 149.1.

For light boat permits, initial issuance criteria based on landings are inappropriate, therefore this option is based on possessing a current market squid permit (vessel or light) and submission of one logbook within a qualifying time period spanning from January 1, 2000 to March 31, 2003.

At the August 27, 2004 adoption hearing, the Commission adopted the initial issuance criteria for a Transferable Market Squid Light Boat Permit in subsection (c)(5) of Section 149.1: Possession of a current market squid permit (either vessel or light for 2004-2005), and submission of one light boat log showing fishing activity on or prior to December 31, 2000.

Options are provided that include permit issuance criteria based on 10 to 50 squid landings in one single fishing season for 20-year California commercial fishermen (grandfathered individuals) pursuant to Fish and Game Code Section 8101. Other options for initial issuance criteria would not be based on prior catch history, and instead would require only that a squid permit have been held in one or more previous years.

The regulation further specifies that should non-transferable classes of permits be selected by the Commission for issuance, they may only be issued to individuals, and may not be issued to partnerships or corporations; although at the time of issuance, the permit may be issued for a vessel which is owned by a partnership or corporation. This provision allows for the non-transferable permit to expire when the permit holder dies, as the individual's personal fishing history was used to meet the initial issuance criteria.

Options for additional initial issuance criteria for non-transferable permits are proposed in the updated regulatory text. These options may be selected by the Commission in order to further limit the potential pool of non-transferable applicants due to the lengthy adoption process of the FMP. The Commission may now select to institute a window period during which the individual's catch history must have been made to qualify for a non-transferable vessel or brail permit. The proposed window period for transferable permits from [January 1, 1990 – January 1, 2000] through [November 12, 1999 – March 31, 2003] is proposed for consideration.

Additionally, if multiple individuals apply for issuance of a non-transferable permit with catch history from the same vessel, only the individual with the greatest number of landings or if applicable, the greatest number of landings during the window period, will qualify for issuance of a non-transferable permit.

An option was also added to require that the non-transferable permit holder be aboard the permitted vessel while the vessel is fishing under authority of the permit. This requirement would possibly curtail effort by vessels upon which non-transferable permits are placed.

Minor additional modifications were made to the proposed regulatory text of the subsection for clarity and consistency.

The text of subsection (c)(2) of Section 149.1 outlines the requirements for initial permit issuance for Non-Transferable Market Squid Vessel Permits. At its August 27, 2004 meeting, the Commission specified a requirement that individuals possess a 2004-2005 squid vessel permit in order to qualify for a future permit. In addition, the Commission requested the Department expand the range of qualifying catch criteria based on landings history. Non-Transferable permits were established by the Commission to provide an opportunity for 20-year California fishermen to continue in the squid fishery if they had participated in one or more prior years, pursuant to Section 8101 of the Fish and Game Code.

Additionally, the updated regulatory text will now allow the Commission to require a minimum of [20-75] landings in any one fishing season for non-transferable vessel permit issuance, and to select the years in which that fishing activity must have occurred. The Commission may require that the catches have been made in any single fishing season (April through March of the following year). Only landing receipts dated [between January 1, 1990 and March 31, 2003] or [between January 1, 1998 and March 31, 2003] or [before August 27, 2004] will be counted toward qualification. See Table 1 below for information on the number of anticipated qualifiers under each of these window period options.

Alternatively, the Commission may select initial issuance criteria for non-transferable vessel permits based on catch history that was made over a time period greater than a single season. The Commission may require a minimum of [20-150] landings at any time prior to August 27, 2004. See Table 2 below for information on the number of anticipated qualifiers.

Table 1. Estimated number of fishermen that may qualify for a non-transferable market squid vessel permit based on (1) the possession of an 04/05 market squid vessel permit, (2) the possession of a California Commercial Fishing License for at least 20 years, and (3) having made at least [20-75] landings during any one season as recorded by their fishing license identification number. Because the Department does not have precise information on 20-year fishermen, and because many vessels are owned by corporations rather than individuals, a range of estimates is provided. While the lowest value in the range reflects the number of individuals that the Department anticipates are 20-year fishermen, a maximum number of potential qualifiers (where the 20-year criteria is not considered) is provided for reference.

Number of Landings in a Single Season	I. 1/1/1998 through 3/31/2003	II. 1/1/1990 through 3/31/2003	III. Prior to 8/27/2004 (no window period)
20	6-12	10-17	14-23
33	2	6-11	7-15
40	2	4-8	4-14
50	2	3-6	4-11
75	1	1	1-2

Table 2. Estimated number of fishermen that may qualify for a non-transferable market squid vessel permit based on (1) the possession of an 04/05 market squid vessel permit, (2) the possession of a California Commercial Fishing License for at least 20 years, and (3) having made at least [20-150] total landings prior to August 27, 2004 as recorded by their fishing license identification number. Because the Department does not have precise information on 20-year fishermen, and because many vessels are owned by corporations rather than individuals, a range of estimates is provided. While the lowest value in the range reflects the number of individuals that the Department anticipates are 20-year fishermen, a maximum number of potential qualifiers (where the 20-year criteria is not considered) is provided for reference.

Total Number of Landings	Prior to 8/27/2004 (No Window Period)
20	18-30
33	12-25
40	11-21
50	11-20
75	7-14
100	7-12
125	5-12
150	3-9

The modified proposals for Non-Transferable Market Squid Vessel Permits in the regulatory text of subsection (c)(2) of Section 149.1 were provided in the October 5, 2004 Continuation Notice. At its December 3, 2004 meeting, the Commission adopted the initial issuance criteria for Nontransferable Market Squid Vessel Permits in subsection (c)(2) of Section 149.1: Possession of a current market squid vessel permit (2004-2005), possession of a California commercial fishing license for at least 20 years, and a minimum of 33 landings prior to August 27, 2004. Only receipts that demonstrate catch aboard a vessel that does not already qualify for issuance of a transferable permit of any permit class are eligible. Because the Commission directed the Department to require that a current permit would be required for qualification of 20-year grandfather permits, much of the final regulatory text of this subsection is more simplistic than originally proposed as there is no longer a need to otherwise limit the number of potential qualifiers, and therefore was substantially rewritten in the October 5, 2004 Continuation Notice.

The Commission did not adopt proposed subsection 149.1(c)(2)(F) which would have required that the non-transferable permit holder be aboard the permitted vessel while the vessel is fishing under authority of the permit.

Subsection (c)(4) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program. The text of this subsection outlines the requirements for initial permit issuance for Non-Transferable Market Squid Brail Permits. Non-Transferable permits were established by the Commission to provide an opportunity for 20-year California fishermen to continue in the squid fishery if

they had participated in one or more prior years, pursuant to Section 8101 of the Fish and Game Code. Because the Commission specified a requirement that individuals possess a 2004-2005 squid vessel or light boat permit for qualification of 20-year grandfather permits, much of the proposed regulatory text of this subsection for brail permits was amended for consistency with the non-transferable vessel permit class. The revised regulatory text is simpler as there is no longer a need to establish a complex set of criteria that would limit the number of potential qualifiers.

However, because the Commission did adopt the specific qualifying catch history for this class of permit at the August 27, 2004 adoption hearing (10 brail landings in a season between January 1, 2000 and March 31, 2003), the proposed regulatory text reflects the actions taken, and the prior options were eliminated.

At its August 27, 2004 meeting, the Commission adopted some elements of the initial issuance criteria for Non-transferable Market Squid Brail Permits in the regulatory text of subsection (c)(4) of Section 149.1, while directing the Department to renote other options for future adoption. The items adopted at its August 27, 2004 meeting included possession of a California commercial fishing license for at least 20 years, and a minimum of 10 landings with brail gear during one fishing season in a window period from January 1, 2000 through March 31, 2003.

The modified proposals were provided in the October 5, 2004 Continuation Notice. At its December 3, 2004 meeting, the Commission adopted the final initial issuance criteria to require possession of a current market squid vessel permit (2004-2005), and to specify that only receipts that demonstrate catch aboard a vessel that does not already qualify for issuance of a transferable permit of any permit class are eligible. Other changes were needed to the regulatory text, as noticed in the October 5 Continuation Notice, for clarity and consistency with subsection (c)(2) of Section 149.1.

The Commission did not adopt proposed subsection 149.1(c)(4)(F) which would have required that the non-transferable permitholder be aboard the permitted vessel while the vessel is fishing under authority of the permit.

At its August 27, 2004 meeting, the Commission adopted the proposed text of subsection (c)(6) of Section 149.1 regarding placement of non-transferable permits on vessels. The phrase “at the time of issuance” was removed in the final regulatory text from the text proposed in the Amended Initial Statement of Reasons dated April 12, 2004 for clarity and accuracy. If a non-transferable permit must be placed on a replacement vessel pursuant to subsection 149.1(o)(3)(F), this

transaction would not occur at the time of initial permit issuance. Therefore, regulatory text limiting the placement of a non-transferable permit on a vessel only to permits issued at the time of initial issuance would be erroneous.

Section 149.1 Subsections (d) and (e) – Specify Application Deadlines for Initial Permit Issuance, and an Appeals Process. These proposed regulations specify that all applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be submitted by June 30, 2004, and provide for a grace period through July 31, 2004 with a \$250 late fee. Applications for initial permit issuance after this time period will be denied by the Department. Failure to impose deadlines on initial issuance could undermine the goals of the restricted access program since mechanisms to reduce fishing capacity designed as part of the program would likely be ineffective if new permits are continuously issued. Regulations also provide that any applicant who is denied initial issuance of any class of permit may appeal that denial to the Commission within 60 days of the denial. The initial issuance application deadline dates were extended by one year, which would result from a change to the April 1, 2005 effective date of the permit requirement. The change was needed to account for extension of the plan adoption date.

At its August 27, 2004 meeting, the Commission adopted the proposed changes to this subsection specifying application deadlines for initial permit issuance, and an appeals process.

The Department proposes the Commission approve an amendment to the adopted regulatory text in subsection (d) of Section 149.1 to specify that the application form number is FG 1315 (8/04), and it is incorporated by reference into the regulations. The form reference was not available at the time the prior notice was filed.

This modification was provided in the October 5, 2004 Continuation Notice and was adopted by the Commission at its December 3, 2004 meeting.

Section 149.1 Subsections (f), (g) and (h) – Specify Annual Permit Renewal Criteria, Deadlines and Appeals Process. These proposed regulations state that permits must be renewed annually, and may only be issued by the Department each year to those who held the same permit in the prior year. It also clarifies that upon the death of a non-transferable permit holder, the permit cannot be renewed. The proposed regulations state that renewal applications must be submitted by April 30 of each year, and provide for a grace period through May 31 of each year with a \$250 late fee. Applications for permit renewal after this time period will be denied by the department and returned to the applicant. If the permittee misses the deadline, an appeals process is again defined. The specified permit renewal deadlines were updated to account for extension of the plan adoption date.

At its August 27, 2004 meeting, the Commission adopted the proposed changes to these subsections concerning Annual Permit Renewal Criteria, Deadlines and Appeals Process. A technical clarification was to the regulatory text of subsection 149.1(f)(2) with regard to the status of a non-transferable permit upon death of a permittee. The permit is described as “null and void” in the final regulatory text rather than “expired.” A technical clarification was also made in subsection 149.1(h) describing the appeals process for permit renewals that are denied by the Department. The department’s denial of a permit renewal may be appealed to the Commission within 60 days of the department issuing the written denial. The term “second denial” was replaced with “written decision.”

Subsection (g) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program. The text of this subsection describes permit renewal application processes, requirements and deadlines. The Department proposes the Commission approve an amendment to the adopted regulatory text to specify that the renewal application form number is FG 1315 (8/04), and it is incorporated by reference into the regulations. The form reference was not available at the time the prior notice was filed.

This modification was provided in the October 5, 2004 Continuation Notice and was adopted by the Commission at its December 3, 2004 meeting.

Section 149.1 Subsection (i) – Fees. The proposed regulations reflect a range of permit, transfer and upgrade fees for the Commission’s consideration. For each market squid permit, the Commission will select an annual fee from a range of \$400 to \$5000. This level may be set differently for each class of permit (i.e. vessel, brail or light; transferable or non-transferable). For permit transfers, both in cases where the vessel is transferred to a new owner, or if the permit is transferred to a replacement vessel, the Commission will select from a proposed fee range of \$250-\$1000 for the transaction. For each Market Squid Brail Permit Upgrade, the Commission will select a one-time fee from a range of \$400 to \$5000.

At its August 27, 2004 meeting, the Commission selected permit, transfer, and upgrade fees as follows:

Transferable Market Squid Vessel Permit: \$2000

Non-transferable Market Squid Vessel Permit: \$1000

Transferable Market Squid Brail Permit: \$2000

Non-transferable Market Squid Brail Permit: \$1000

Transferable Light Boat Permit: \$600

Transfer Fee: \$500

Market Squid Brail Upgrade Fee: \$1500

Section 149.1 Subsection (j) – Permit Revocation, Suspension or Cancellation. The proposed subsection, if adopted, would specify that a permit can be revoked or suspended by the Commission under the following circumstances: a) if the permitholder used false information to qualify for the permit, b) if the permitholder violates commercial squid fishing regulations, or c) if any terms or conditions of the permit are violated.

At its August 27, 2004 meeting, the Commission adopted this subsection as proposed.

Section 149.1 Subsection (k) – Dissolution of Partnership or Corporation. For vessels which hold permits which are issued to partnerships or corporations, rather than individual vessel owners, the proposed regulation would require that the permitholder notify the Department of any dissolution of the partnership or corporation, and to specify who the successor permitholder is so that the Department may reissue the permit in that name.

At its August 27, 2004 meeting, the Commission adopted this subsection as proposed. Additionally, at its December 3, 2004 meeting, the Commission adopted the proposed addition of a clarifying sentence to specify that change of ownership provisions defined in subsection 149.1(l) and transfer fees in subsection 149.1(i)(2) are applicable to this situation, as provided in the October 5, 2004 notice.

Section 149.1 Subsection (l) – Change of Vessel Ownership. The proposed regulations, if adopted, would require the Commission to set a fee from a range of \$250-\$1000 to be imposed in cases where a permitholder sells his permitted vessel to another owner, and chooses to transfer the market squid permit to the new vessel owner. Documentation requirements and procedures for completing the transaction are also provided. The proposed regulations clarify that non-transferable permits will be canceled upon the sale or transfer of ownership of the vessel.

At its August 27, 2004 meeting, the Commission adopted the proposed subsection and set the change of vessel ownership transfer fee at \$500. In addition, minor technical changes were made to the final regulatory text of subsection 149.1(l)(3). If a vessel is permitted as a non-transferable vessel and is sold to a new owner, the non-transferable permit may not be transferred to the new owner. Sale of the vessel renders the permit “null and void” rather than “cancelled by the Department.”

Section 149.1 Subsection (m) – Capacity Goals. This subsection establishes in regulation, the optimum number of vessels for each squid fishery permit class as selected by the Commission. These numbers form the basis from which other provisions of the restricted access program, such as permit

transferability, are determined. If approved, the Commission will adopt a capacity goal for Market Squid Vessel Permits from a range of 10-104 permits, a capacity goal for Market Squid Brail Permits of 18 permits, and a capacity goal for Market Squid Light Boat Permits from a range of 10-104 permits. The proposed regulations also specify that the capacity goals for vessel permits shall equal the sum of the capacity goals for the brail and light boat permit classes.

At its August 27, 2004 meeting, the Commission adopted the proposed regulations, setting the capacity goal for market squid vessels that produces a moderately productive and specialized fleet [55 vessels, 18 brail and 34 light boats (these are the combined capacity goals for both Transferable and Non-Transferable permits of the same class)]. The Commission did not adopt proposed subsection 149.1(m)(4), which would have set the capacity goal for the number of market squid vessel permits equal to the combined number of the capacity goals for market squid brail and light boat permits, resulting in renumbering of proposed subsection 149.1(m)(5) to 149.1(m)(4).

Section 149.1 Subsection (n) – Gross Tonnage Endorsement. Proposed regulations in this subsection explain the criteria for defining or calculating the gross tonnage of a vessel for which a Market Squid Vessel Permit or a Market Squid Brail Permit is issued. The provisions provide consistency with federal regulations which are established for Coastal Pelagic Species fishery permits, and to provide a measure of comparable capacity for purposes of determining permit transferability.

At its August 27, 2004 meeting, the Commission adopted this subsection as proposed.

Section 149.1 Subsections (o) and (p) – Transfer of Permits to Replacement Vessels and Transfer Appeals Process. If adopted, these subsections would define criteria that would allow for transfer of a permit to a different vessel after August 31, 2004 as selected by the Commission from a wide range of options. The option recommended by the Department would limit permit transfers in these classes to vessels only of comparable capacity, consistent with transferability guidelines for federal Coastal Pelagic Species permits. Regulations would specify that two vessels in the vessel or brail permit classes are considered to be of comparable capacity if the gross tonnage of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel. Other options include no permit transferability except in cases of major mechanical breakdown or loss of the vessel, and transferability of permits regardless of vessel capacity. An additional option provides for cases where a replacement vessel does not meet the ‘comparable capacity’ provisions, a “two-for-one” permit transfer (an additional permit must be relinquished) may be authorized. The effective date

for permit transfers was updated to reflect extension of the plan adoption date.

Light boat permit transfer options include “one for one” permit transferability, or provisions for a “two-for-one” permit transfer if the number of permits issued is at a level above the capacity goal specified in subsection (m), and “one for one” if the number of permits issued is below the capacity goal.

Regulations also define documentation requirements and procedures for completing the permit transfer transactions, and provide that any applicant who is denied transfer of any permit may appeal that denial first to the Department and then to the Commission.

At its August 27, 2004 adoption hearing, the Commission adopted transfer provisions for Transferable Market Squid Vessel Permits and Market Squid Brail Permits that allow for these permits to be placed on vessels of comparable capacity (within 10 percent of the gross tonnage of the original vessel). Additionally, for Transferable Market Squid Vessel Permits, if the replacement vessel is not of comparable capacity, a permit may still be transferred to a replacement vessel with surrender of two permits that, in sum, add up to capacity that is comparable to the replacement vessel. The Commission adopted transfer provisions for Transferable Market Squid Light Boat Permits that allow the permit to be transferred to another entity who is the owner of a replacement commercial fishing vessel. Modifications were made to the proposed regulatory text of this subsection to reflect the actions taken as well as to make technical corrections (text of subsections (o)(5) and (o)(6) was inadvertently included twice). Other text was added to clarify provisions related to estate transfers and to specify the transfer process for Non-Transferable Market Squid Vessel Permits and Non-Transferable Brail Permits to replacement vessels, as follows:

- In the event of death of the holder of a Transferable Market Squid Vessel Permit, Transferable Market Squid Brail Permit, or a Transferable Market Squid Light Boat Permit, the estate must apply for transfer of the permit to another entity within one year of the permitholder’s death.
- A Non-Transferable Market Squid Vessel Permit or a Non-Transferable Market Squid Brail Permit may not be transferred to another owner or vessel, except in the event the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown, the permit may be placed on a replacement vessel of comparable capacity, with proof that the permitted vessel is lost, stolen, or destroyed in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency. In the case of mechanical

breakdown, the application shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard.

At its December 3, 2004 meeting, the Commission adopted the proposed changes provided in the October 5, 2004 notice. In addition, a technical clarification was made describing the appeals process for permit transfer requests that are denied by the Department. The department's denial of a permit transfer may be appealed to the Commission within 60 days of the department issuing a written decision. The term "second denial" was replaced with "written decision."

Section 149.1 Subsections (q) and (r) – Market Squid Brail Permit Upgrade, and Appeals Process. If adopted, these subsections would provide for a Market Squid Light Boat permittee to upgrade to a Market Squid Brail Permit with surrender of one to three additional Market Squid Light Boat Permits. This option will provide a mechanism to reduce the number of light boat permits, while providing an opportunity to acquire a Market Squid Brail Permit. Regulations also define documentation requirements and procedures for completing the transaction, and provide that any applicant who is denied upgrade of the permit may appeal that denial first to the Department and then to the Commission.

At its August 27, 2004 meeting, the Commission adopted the addition of these subsections, specifying that the purchase of a Transferable Market Squid Brail Permit by a permittee who holds a Transferable Market Squid Light Boat Permit may occur with surrender of one additional Transferable Market Squid Light Boat Permit. A grammatical correction was made to subsection 149.1(q). "Transferable Market Squid Light Boat Permits" was replaced with "Transferable Market Squid Light Boat Permit." In subsection 149.1(q)(1), the descriptor "Transferable" was added preceding "Market Squid Brail Permit" to clarify that individuals seeking the upgrade would be issued a transferable rather than a non-transferable brail permit. In subsection 149.1(q)(2), the regulatory text was clarified to specify that "Transferable Market Squid Light Boat" permittees are the permit class eligible to transfer permits for purposes of a brail permit upgrade. Minor grammatical changes were made to the final regulatory text of subsection 149.1(r). The descriptor "Transferable" was added preceding both "Market Squid Light Boat Permit" and "Market Squid Brail Permit" for clarity to distinguish from non-transferable permit classes. Additionally, as with subsections (h) and (p) of Section 149.1, the term "second denial" was replaced with "written decision."

Add Section 149.2, Permits for Taking of Market Squid for Sale as Live Bait.

If adopted, on and after April 1, 2005, any owner of a vessel which takes

market squid for live bait purposes will be required to hold a Market Squid Live Bait Permit for that vessel. This regulatory option is provided to the Commission should they choose to initiate management of this currently-unregulated component of the squid fishery. The specified permit requirement date was extended by one year to account for extension of the plan adoption date. If adopted, the proposed live bait permit requirement would be effective on and after April 1, 2006.

The Commission did not adopt proposed Section 149.2, which would have required a permit for the sale of squid as live bait.

Add Section 149.3, Experimental Market Squid Vessel Permits.

If adopted, this provision would allow the commission to issue 1-5 Transferable or Non-Transferable Market Squid Vessel Permits to any individual for placement on any vessel for purposes of developing a squid fishery in areas previously not utilized for squid production. Individuals issued permits pursuant to this Section would be required to adhere to all commercial squid fishing regulations in Section 149, Title 14, CCR, and all terms and conditions for permits defined in Section 149.1, excepting initial issuance criteria defined in Section 149.1(c).

Two additional options were added to the proposed regulatory text of this Section for the Commission's consideration. In the event that the Commission selects the option that establishes a squid fishery closure for all waters north of Pillar Point, the Commission may adopt a provision exempting experimental fishery permit holders from this closure area only. An option is also included that would establish a maximum seasonal catch limitation of [2,000 – 5,000] tons by experimental fishery permittees.

At its August 27, 2004 meeting, the Commission adopted this subsection, establishing three Experimental Non-transferable Market Squid Vessel Permits. Since the Commission did not adopt a squid fishery closure for all waters north of Pillar Point, an exemption from such a closure for experimental fishery permit holders was not necessary. The Commission did not adopt a maximum seasonal catch limitation for experimental fishery permittees. Minor technical clarifications were made to the final regulatory text.

Add Section 149.4, Market Squid Fishery Regional Control Date

If adopted, this provision would establish a control date to notify participants of intent to adopt a regional restricted access program for the squid fishery at a future date. A range of control date options [April 1, 1998 – October 17, 2003] is proposed for consideration. Fishery participation on or after this date may apply toward a permit for a specified geographic region under a future regional restricted access program for the market squid fishery if one is developed.

Fishery participation prior to the control date would not be used as a measure of participation to qualify for initial issuance of regional restricted access permits. Only participation on or after the control date may be used to determine eligibility in a future regional restricted access program. The port of landing of these catches or records of light boat activity would be used to determine eligibility in specific geographic areas.

Possession of any market squid vessel, brail, or light boat permit issued pursuant to Section 149.1, Title 14, CCR, would not guarantee issuance of a permit under any future squid regional restricted access program. Beginning with the fishing season immediately following adoption of a regional restricted access program, market squid fishery permits issued pursuant to Section 149.1 would be replaced with the appropriate regional permits that would be subject to specific conditions for issuance. Permits previously issued under Section 149.1 would be nullified and no longer subject to renewal provisions. The range of control date options was expanded to allow for selection of a control date between January 1, 1990 and August 27, 2004.

The Commission did not adopt proposed Section 149.4 which would have established a Regional Control date.

A summary of the actions taken at the two adoption hearings is provided in the following table, which will result in amendment of Section 149, Title 14, CCR, and addition of Sections 53.00 et seq, Section 149.1 and 149.3, Title 14, CCR.

MARKET SQUID FISHERY MANAGEMENT PLAN IMPLEMENTING REGULATIONS ADOPTED BY THE COMMISSION ON AUGUST 27, 2004 AND DECEMBER 3, 2004	
FISHERY CONTROL RULES	
A. Seasonal Statewide Catch Limitation	
	Establish a seasonal catch limitation of 118,000 tons.
B. Monitoring the Fishery using an Egg Escapement Method	
	Monitor the fishery through the egg escapement method at a threshold level required in the CPS FMP while pursuing a biomass estimate of market squid.
C. Daily Trip Limit for Market Squid Vessels and Brail Vessels	
	Do not establish daily trip limits.
D. Weekend Closures	
	Continue closures from noon Friday to noon Sunday from the U.S.-Mexico border to the California-Oregon border.
E. Monitoring Program	
	Continue existing squid monitoring programs (port sampling and logbooks).
F. Live Bait Fishery and Incidental Catch of Market Squid	
	Continue existing regulations that do not require a squid permit when fishing for live bait or for incidental take 2 tons or less.

MARKET SQUID FISHERY MANAGEMENT PLAN IMPLEMENTING REGULATIONS ADOPTED BY THE COMMISSION ON AUGUST 27, 2004 AND DECEMBER 3, 2004	
FISHERY CONTROL RULES	
G. Gear Restrictions	
	Maintain existing gear restrictions requiring light shields and specifying a maximum wattage (30,000 watts).
	Lower edges of the shields shall be parallel to the deck of the vessel.
RESTRICTED ACCESS PROGRAM	
H. Market Squid Fleet Capacity Goal	
	Establish a capacity goal for market squid vessels that produces a moderately productive and specialized fleet [55 vessels, 18 brail and 34 light boats (these are the combined capacity goals for both Transferable and Non-Transferable permits of the same class)].
I. Initial Issuance of Permits	
	<p><u>Transferable Permits:</u></p> <p><i>Market Squid Vessel Permit:</i> Possession of a current market squid vessel permit (2004-2005) and a minimum of 50 landings in window period January 1, 2000 through March 31, 2003;</p> <p><i>Brail Permit:</i> Possession of a current market squid vessel permit (2004-2005) and a minimum of 10 landings made with brail gear in window period January 1, 2000 through March 31, 2003;</p> <p><i>Light Boat Permit:</i> Possession of a current market squid permit (either vessel or light for 2004-2005), and submission of one light boat log demonstrating fishing activity on or before December 31, 2000.</p> <p><u>Non-Transferable Permits:</u></p> <p><i>Market Squid Vessel Permit:</i> Possession of a current market squid vessel permit (2004-2005), possession of a California commercial fishing license for at least 20 years, and a minimum of 33 landings prior to August 27, 2004. Only receipts that demonstrate catch aboard a vessel that does not already qualify for issuance of a transferable permit of any permit class are eligible.</p> <p><i>Brail Permit:</i> Possession of a current market squid vessel permit (2004-2005), possession of a California commercial fishing license for at least 20 years, and a minimum of 10 landings with brail gear during one fishing season in a window period from January 1, 2000 through March 31, 2003. Only receipts that demonstrate catch aboard a vessel that does not already qualify for issuance of a transferable permit of any permit class are eligible.</p> <p><i>Light Boat Permit:</i> There is not a non-transferable permit category.</p>
J. Permit Fees	
	<p>Establish an annual permit fee:</p> <p>Transferable Market Squid Vessel Permit: \$2000</p> <p>Non-transferable Market Squid Vessel Permit: \$1000</p> <p>Transferable Market Squid Brail Permit: \$2000</p> <p>Non-transferable Market Squid Brail Permit: \$1000</p> <p>Transferable Light Boat Permit: \$600</p>

MARKET SQUID FISHERY MANAGEMENT PLAN IMPLEMENTING REGULATIONS ADOPTED BY THE COMMISSION ON AUGUST 27, 2004 AND DECEMBER 3, 2004	
FISHERY CONTROL RULES	
K. Market Squid Vessel Permit Transfer	
	Establish full transferability (1-for-1) of market squid vessel permits based on comparable capacity (within 10%); establish transferability of market squid vessel permits to a vessel of larger capacity under a “2-for-1” permit retirement.
L. Market Squid Brail Permit Transfer	
	Establish full transferability (1-for-1) of market squid brail permits based on comparable capacity.
M. Market Squid Light Boat Permit Transfer	
	Establish full transferability (1-for-1) of light boat permits.
N. Transferability Fee	
	Establish a transfer fee of \$500.
O. Experimental Market Squid Vessel Permits	
	Establish 3 experimental non-transferable market squid vessel permits.
P. Market Squid Fishery Regional Control Date	
	Do not establish a regional restricted access control date.
ECOLOGICAL CONCERNS	
Q. Harvest Replenishment/General Habitat Closure Areas	
	Do not set aside specific areas as harvest replenishment areas for market squid.
R. Area and Time Closures to Address Seabird Issues	
	Squid may not be taken using attracting lights in all waters of the Gulf of the Farallones National Marine Sanctuary (Sanctuary boundaries as defined on August 27, 2004) at any time.

Forms - The Commission has incorporated application forms (DFG 149a (09/01), DFG149b (09/01), and FG 1315 (08/04)) of this rulemaking by reference because it would be impractical to publish the forms in the California Code of Regulations due to the length of the forms and the fact that the forms are revised frequently. DFG 149a (09/01) and DFG149b (09/01) were available upon request from the Fish and Game Commission office from October 17, 2003 through December 3, 2004. FG 1315 (08/04) was available on request from the Fish and Game Commission office from October 15, 2004 through December 3, 2004.

Concurrent Rulemaking - Office of Administrative Law's Notice ID # Z 04-1005-08 (Marine Protected Areas) concurrently proposes to add subsection (k) to Section 149, Title 14, CCR; which would specify that a Tidal Invertebrate Permit is not needed for the commercial take of squid. This (Market Squid) rulemaking package would incorporate additional changes in Section 149, Title 14, CCR, proposed by Office of Administrative Law's Notice ID # Z 04-1005-08 (Marine Protected Areas). Should Notice ID # Z 04-1005-08, be approved first, its proposed subsection (k) would be re-lettered subsection (f), until such time as this (Market Squid) rulemaking package is approved, when it will be subsequently re-lettered subsection (k).

Statutes Made Inoperative Upon Adoption of the Market Squid FMP and Implementing Regulations - Fish and Game Code Section 8429.7 states that Sections 8420.5 to 8423.5, inclusive, and Sections 8426 and 8427 shall become inoperative upon the adoption by the Commission of a market squid fishery management plan and the adoption of implementing regulations pursuant to Section 8425, and are repealed six months thereafter.

Fish and Game Section 7852.2 becomes inoperative as it applies to commercial squid fishery permits, per authority of Fish and Game Code Section 8428. This section states that fees for commercial squid fishing permits shall be established by the Commission; and that the total revenues derived shall not exceed the Department's and the Commission's costs for managing the fishery. Further authority for making Section 7852.2 inoperative is provided in Fish and Game Code subsection 7071(b), which states that regulations that the Commission adopts to implement a fishery management plan may make inoperative any statute as it specifically pertains to that fishery. The statute further specifies that permit fees are included under this authority.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION

Add Sections 53.00, et seq; 149.1, and 149.3

Amend Section 149

Title 14, California Code of Regulations

Re: Market Squid Fishery Management Plan, Commercial Take of Squid,
and Market Squid Restricted Access Program

ADDENDUM TO FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

I. Updated Responses to Public Comments

These summaries and responses supercede the ones in Table 3 of Item 62.

Orlando Amoroso, SCCFA	letter dated 23 August 2004	C-76. Supports a grandfather clause that is based not so much on "how many" but "how fair". The association is sympathetic to the needs of those fishermen that have pioneered and contributed to the success of the squid fishery...but may miss initial issuance of transferable permits due to extreme circumstances or factors beyond their control.	Comment noted. For the issuance of non-transferable market squid vessel permits, the Commission chose the following criteria: (1) made at least 33 landings with no window period, (2) the possession of a current 04/05 market squid vessel permit, and (3) the possession of a California Commercial Fishing License for at least 20 years. These criteria are intended to include those historical fishermen who have shown historical participation in the fishery both by landings and have maintained permits. Fishermen may also appeal exclusion from initial issuance. Appeals are provided for in the regulations (Section 149.1(e), Title 14, CCR).
Zeke Grader, Executive Director PCFFA	verbal testimony provided to Commission dated 27 August 2004	C-91. Supports a catch limitation of 100,000 tons, with area quotas of 1,000 tons (for an experimental fishery) above Pt. Arena and 99,000 tons for the remainder of California.	See response to C-5.

Dan Yoakum, San Francisco Roe on Kelp Advisor	verbal testimony provided to Commission dated 27 August 2004 (similar to comment in letter dated 25 February 2004)	C-111. Keep all existing squid permits; however, permits should be issued to squid fishermen by region with the Fort Bragg region being defined with the northern boundary approximately at Cape Mendocino and the southern boundary with three possibilities: Pt. Reyes, Gualala, or Pt. Arena.	<p>The Commission had the option of continuing the current permit program under the moratorium. However, that alternative was not adopted because it is not in accordance with the intent of the legislation to protect the resource and manage the fishery at a level that sustains healthy squid populations, taking into account the level of fishing effort and ecological factors, including, but not limited to, the species' role in the marine ecosystem and oceanic conditions.</p> <p>Commission also had the option of moving toward regional management for the fishery by adopting two specific regulatory provisions, regional catch limits and a regional control date. Neither of these options was adopted by the Commission because the Commission determined that regional management is not necessary at this time to effectively manage the fishery.</p>
Dan Yoakum, San Francisco Roe on Kelp Advisor	letter dated 25 February 2004	C-117. Each permittee should be limited to an annual catch not to exceed 1,000 tons. This would distribute the allowable quota evenly to each permittee and there would be less chance of over harvesting individual spawns.	Comment noted. The Commission chose not to establish daily trip limits which would function similar to an annual limit. The Department did not recommend the establishment of daily trip limits because the seasonal harvest limit had not been taken in recent years; therefore, there was not a race between vessels to land the allowable limit in as short of time as possible. Furthermore, fish processors implement their own trip limits as needed to regulate the amount of squid delivered per day.
Dan Yoakum, San Francisco Roe on Kelp Advisor	letter dated 25 February 2004	C-119. The seine net depth should be no more than the ocean depth in which it is deployed. This is to prevent the seine net from scraping the ocean floor.	See response to C-10.

Kate Falkner signed for Russel E. Galipeau, Jr., Superintendent, Channel Islands National Park	letter dated 3 August 2004	C-130. Recommends that live bait operations be included in the squid catcher vessel permit system. Also, recommends that expanded data collection from the live bait fishery is needed.	See response to C-58.
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II. Incorporation by Reference of the Market Squid Fishery Management Plan.

The Commission has incorporated the Market Squid Fishery Management Plan (Market Squid FMP) by reference because it would be impractical to publish the Market Squid FMP in the California Code of Regulations due to the length of the document. The Commission approved the 12 April 2004 Draft Market Squid FMP as the Final Market Squid FMP at its August 27, 2004 meeting. The 12 April 2004 Draft Market Squid FMP was available upon request from the Fish and Game Commission office beginning April 19, 2004 and has been continuously available since that date.

III. Necessity for dates of the window periods.

Subsections (c)(1)(C), (c)(3)(C), and (c)(5)(C) of Section 149.1, Title 14, CCR, list the periods during which fishing activity must have occurred in order to qualify for a Transferable Market Squid Vessel Permit, a Transferable Market Squid Brail Permit, and a Transferable Market Squid Light Boat Permit, respectively. The Commission chose these dates, based on the majority of public and industry comments, as the dates which show recent and active participation in the fishery while still allowing the fishery to be managed at a sustainable level.

Subsections (c)(2)(D) and (c)(4)(D) of Section 149.1, Title 14, CCR, list the periods during which fishing activity must have occurred in order to qualify for a Non-transferable Market Squid Vessel Permit, and a Non-Transferable Market Squid Brail Permit, respectively. The Commission chose these dates, based on the majority of public and industry comments, as the dates which show recent and historical participation in the fishery, allowing for 20-year commercial fishermen to be included in the fishery, pursuant to Section 8101 of the Fish and Game Code, while still allowing the fishery to be managed at a sustainable level.

IV. Non-substantive changes to regulatory language.

The following non-substantive changes have been made to the regulatory language:

- Subsections (c) and (d) of Section 53.00 have been added to the regulatory language. These subsections list the statutes being made inoperative by the adoption of these regulations as required by Fish and Game Code 7078(f).
- Addition of Section 7078 of the Fish and Game Code as an authority citation to all of the regulations in this rulemaking where it wasn't previously listed.

- Addition of Section 8429.7 of the Fish and Game Code as an authority citation for Section 53.00.
- Addition of sections 12159 and 12160 of the Fish and Game Code as an authority citation for Section 149.
- Correction of typographical error of a reference section for Section 149.1: 8081 should be 8101.
- Addition of text of subsection (k) of Section 149 that was approved in OAL file 05-0128-04s in order to be consistent with the current California Code of Regulations.

V. Clarification of statement on pages 7 and 38 of the Final Statement of Reasons (Item 61 of the rulemaking file)

Fish and Game Code Section 8428 does not provide the authority to make Section 7852.2 inoperative as it applies to commercial squid fishery permits. Fish and Game Code Section 8428 states that fees for commercial squid fishing permits shall be established by the Commission; and that the total revenues derived shall not exceed the Department's and the Commission's costs for managing the fishery. Fish and Game Code Section 7852.2 becomes inoperative as it applies to commercial squid fishery permits pursuant to the authority provided in Fish and Game Code subsection 7071(b), which states that regulations that the Commission adopts to implement a fishery management plan may make inoperative any statute as it specifically pertains to that fishery. The statute further specifies that permit fees are included under this authority.

VI. Statement of Compliance with subsection (d) of Section 7078 of the Fish and Game Code.

The Fish and Game Commission hereby certifies that it has complied with subsection (d) of Section 7078 of the Fish and Game Code. The Fish and Game Commission provided a copy of the Draft Market Squid Fishery Management Plan to the Legislature for review by the Joint Committee on Fisheries and Aquaculture prior to adoption of the Plan.

VII. The Fish and Game Commission withdrew subsections (i)(3), (q) and (r) of Section 149.1.